

From: [Doug Young](#)
To: [Joe Zisa](#); [Jeff Gosse](#); [Amy Defreese](#); [Tyler Abbott](#)
Subject: RE: Review Requested by 5-17 - proposed draft FWS Guidelines: Migratory Bird Conservation Strategy for New Transmission and Distribution Line Projects
Date: Wednesday, May 15, 2013 12:04:02 PM
Attachments: [Draft FWS Guidance Recommendation 051313.doc](#)

Gentle reminder – would greatly appreciate any FWS review from you practitioners! Thanks, Doug

From: Doug Young [mailto:doug_young@fws.gov]
Sent: Monday, May 13, 2013 2:28 PM
To: julie_reeves@fws.gov; Joe Zisa (Joe_Zisa@fws.gov); Jeff Gosse; Amy Defreese; Tyler Abbott
Subject: Review Requested by 5-17 - proposed draft FWS Guidelines: Migratory Bird Conservation Strategy for New Transmission and Distribution Line Projects

Greetings – we all are working on proposals for new transmission line projects, and have experienced a variety of responses from energy project developers when we recommend a Migratory Bird Conservation Strategy (MBCS) be developed for the new t-line (or d-line) projects. One consistent developer response that also has been voiced by BLM and USFS is: what is the FWS policy guidance that justifies development of a MBCS?

A couple weeks ago I met with Region 1 Migratory Birds and ES ARDs and technical staff, David Cottingham, and RRTT (BLM representative – Josh Hanson) to discuss an RRTT t-line project that does not want to develop a project-specific MBCS. They instead want to use their company APP (and BTW it's a really good one - for its intended purpose) and only disclose new project impacts via BLM's NEPA analysis. Region 1 developed a briefing document for this meeting (Julie previously shared this with the FWS' T-line team), that compares/contrasts APPs with MBCS, discusses EO 13186 and its associated MOUs, and justifies the FWS recommendation that new t-line and d-line projects collaboratively develop a project-specific MBCS. By the end of our meeting, I believe the RRTT representative (Josh Hanson) was convinced, as was Cottingham, that MBCS strategies are justified for RRTT and other new t-line projects. In fact it was a successful enough meeting that we here in Region 1, after testing the concept at various levels) decided to upgrade the briefing statement into a proposed FWS national guidance document on this important issue. If successful, this effort could lead to a FWS MBCS guidance/policy document that we could point to, consistent with EO 13186, when negotiating energy project proposals with applicants and the lead federal ROW agency.

Please keep this document close hold for now. I ask each of you to take 10 minutes to provide me a review of the attached document. My counterpart in Migratory Birds is circulating this document at same time within Region 6 (Kevin K) and a Mig Bird specialist in WO. Next week we will review all ES and MB comments, and compile into a clean version. Then we hope the Regions will raise this upwards, and we will eventually get new t-line project MBCS guidance from our WO.

Thanks for your consideration. Please get me any edits you have by this Friday, May 17, COB.

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Draft FWS Guidance Recommendation:

Application of Migratory Bird Conservation Strategy for Electrical Transmission Projects

Avian Protection Plans (APPs) are developed by power companies to address bird electrocutions on power pole and line systems that distribute power to individual buildings (i.e. *distribution* lines). They might also include recommendations to avoid and minimize risk of bird collisions on distribution lines and larger capacity transmission lines. Transmission lines generally pose minimal electrocution risk to birds as they are strung between tall towers and are well separated from each other by large spaces, and from other conducting materials by stacks of insulators. Nest management is also commonly addressed in an APP, from the perspective of avoiding and minimizing take associated with line, pole, or vegetation maintenance on existing lines. APPs are voluntary documents, owned by the utility, and sometimes written with assistance from the FWS, and, they are usually company-wide policy, rather than project-specific, documents. Thus, APPs guide utilities to avoid and minimize bird take from electrocutions, collisions, and maintenance issues that arise from birds nesting in and around existing structures and along rights of way. Guidance for utilities to avoid and minimize electrocutions and collisions with their lines were developed by the Avian Power Line Interaction Committee (APLIC 2006, 2013), and recommendations for APPs are included.

There are additional impacts to birds that are usually not covered by APPs. While APPs may generally address the issue of habitat that is lost to the construction of lines, they rarely if ever consider options to offset that direct loss by mitigation elsewhere. The direct impacts are obvious and easily quantified – acreage of vegetation is cleared to build the towers and/or poles and the roadways used to construct lines and service them. Indirect impacts are both less obvious and less quantifiable. Towers and poles serve as hunting perches and nest platforms for raptors and corvids (mostly ravens, crows, and magpies) (Knight and Kawashima 1993, Steenhoff et al 1993). Increased densities of avian predators along distribution and transmission line corridors, with an unnaturally advantageous ‘bird’s eye view’ of the surrounding landscape, may negatively affect the success of birds nearby (Walker et al. 2010, Vander Haegen et al 2002). The extent of the effects, outward from the energy corridor, is not precisely defined, but 3-5 miles has been suggested by the Service (FWS 2011) as the distance to which lekking Sage-Grouse might be sensitive to tower or pole placement. For smaller nesting birds the distance is likely considerably less.

A traditional APP does not address these direct and indirect impacts of a new distribution or transmission project. For new linear energy projects, which will directly and indirectly affect MBTA species and their habitats, and often in multiple habitat types, project-specific assessment and conservation measures are reasonably expected during project planning and permitting phases, and best developed and incorporated into a Migratory Bird Conservation Strategy (MBCS). Thus, the Service is recommending all new distribution and transmission line projects develop a MBCS, with remediation and mitigation to avoid and minimize the direct and indirect effects of bird habitat lost to these projects.

Like APPs, MBCSs are voluntary documents. The FWS considers MBCSs to be positive steps toward bird conservation, and recommending the development of these plans is in keeping with

Executive Order 13186, *Responsibilities of Federal Agencies to Protect Migratory Birds* (2001). Under this E.O., Federal agencies have developed Memorandum of Understanding with the Service which describe positive steps they will take to "... strengthen migratory bird conservation and ... contribute to the conservation of migratory birds and their habitat" in collaboration with the Service. Additionally, recommending a MBCS is in accordance with the FWS Mitigation Policy (1981), which relies on the authorities of the Fish and Wildlife Act, Fish and Wildlife Coordination Act, and National Environmental Policy Act. Thus, although the MBCS would be voluntary, it is in the spirit and intent of the Executive Order, these Federal Agency MOUs, and the FWS Mitigation Policy.

An example of an MBCS template outline, based on an MBCS from a new linear energy project, is provided as additional guidance (Attachment).

Literature

APLIC, Avian Power Line Interaction Committee (APLIC). 2006. Suggested Practices for Avian Protection on Power Lines: The State of the Art in 2006. Edison Electric Institute, APLIC, and the California Energy Commission. Washington, D.C and Sacramento, CA.

Avian Power Line Interaction Committee (APLIC). 2012. Reducing Avian Collisions with Power Lines: The State of the Art in 2012. Edison Electric Institute and APLIC. Washington, D.C.

Knight, RL, and JY Kawashima. 1993. Responses of raven and Red-tailed Hawk populations to linear right-of-ways. *J Wildl. Mgmt.* 57(2):266-271.

Steenhof, KS, MN Kochert, JA Roppe. 1993. Nesting by raptors and Common Ravens on electrical transmission line towers. *J Wildl. Mgmt.* 57(2):271-281.

USFWS, U.S. Fish and Wildlife Service. 1981. U.S. Fish and Wildlife Service Mitigation Policy. <http://www.fws.gov/policy/46FR7656.pdf>

Vander Haegen, WM, MA Schroeder, RM DeGraaf. 2002. Predation on real and artificial nests in shrubsteppe landscapes fragmented by agriculture. *The Condor* 104(3):496-506.

Walker, BL, DE Naugle, KE Doherty. 2007. Greater Sage-Grouse population response to energy development and habitat loss. *J Wildl. Mgmt* 71(8):2644-2654.

USFWS, United States Fish and Wildlife Service. 2011. Examples of prairie-grouse and sage-grouse buffers: Specific buffers should be handled at the site-specific scale. http://www.fws.gov/windenergy/docs/Grouse_Buffers.pdf

Attachment 1 – MIGRATORY BIRD CONSERVATION PLAN OUTLINE

1. Introduction/Project Description
2. Regulatory Framework
 - a. MBTA
 - b. BGEPA
 - c. EO 13186
3. Avoidance and Minimization Commitments
 - a. Siting and Design
 - b. Construction
 - c. Post-construction
 - d. Operation and Maintenance
4. Analysis at Multiple Scales
 - a. Landscape-scale analysis
 - b. Habitat Mapping – describe as basis for acreage
 - c. Species descriptions (by BCR)
 - i. Status and threats
 - d. Direct and indirect effects to Individuals – analysis and results
5. Compensatory mitigation for Habitat, other impacts
 - a. Habitat acquisition and management
 - b. Habitat restoration
 - c. Research and adaptive management
6. Ongoing coordination